

Zoning Board of Appeals Minutes
April 28, 2020

ZBA MEMBERS	ZBA MEMBERS ABSENT	STAFF PRESENT
Jim Racheff- Chair Kenneth Ying Lawrence Aronow Shuan Butcher Steve West Bob Sisson-Alternate Member		Gabrielle Collard, Division Manager of Current Planning Joe Adkins, Deputy Director of Planning & Community Development Brandon Mark, Division Manager of Comprehensive Planning/Urban Development Rachel Depo, Assistant City Attorney Jessica Murphy, Administrative Assistant

I. ANNOUNCEMENTS: None

II. GENERAL PUBLIC COMMENT: None

III. APPROVAL OF MINUTES:

Approval of the **January 28, 2020** Zoning Board of Appeals Meeting Minutes as published:

MOTION: Mr. Butcher moved for approval of the **January 28, 2020** hearing minutes.

SECOND: Mr. Aronow

VOTE: **3-0 (Mr. West Abstained)**

IV. PUBLIC HEARING-SWEARING IN:

“Do you solemnly swear or affirm that the responses given, and statements made in this hearing before the Zoning Board of Appeals will be the whole truth and nothing but the truth.” If so, answer “I do”.

V. CONTINUANCES: None

VI. OLD BUSINESS: None

VII. NEW BUSINESS:

A. ZBA20-182CU, Conditional Use, 1207 Oakwood Drive

MOTION: Mr. Racheff moved for approval of the request for a home occupation to establish a gun smith and online firearms dealer at 1207 Oakwood Drive finding that:

1. The proposed use is in harmony with the purpose and intent of the Comprehensive Plan and this Code.
2. The characteristics of the use and its operation on the property in question and in relation to adjacent properties will not create any greater adverse impact than the operation of any permitted use not requiring conditional use approval.
3. That the proposed activity will comply with all conditions and requirements set forth in this Code, including any specific standards established in Article 8 of this Code.
 - a. The applicant must provide guarantees that the use of a property as a home occupation will not constitute a nuisance because of increased pedestrian or vehicular traffic, noise, or other activity associated with the use of the dwelling for business purposes which may be disruptive to the residential character of the neighborhood
 - b. The home occupation must be secondary to the residential use of the property and shall be conducted totally within the dwelling. Not more than twenty (20) percent of the floor area of the dwelling or three hundred (300) square feet, whichever is greater, may be devoted to the home occupation.
 - c. Only one person who is not a resident of the dwelling may be employed/work/volunteer on site in conduct of a home occupation.
 - d. The home occupation may not result in any external evidence that a building is being used for any purpose other than a dwelling.
 - e. Except for the permitted employee who may be employed, a home occupation may result in no vehicular traffic, except for a maximum of one (1) daily local home delivery from services such as UPS or FedEx, and in no case shall result in delivery by tractor trailer trucks.

With the following conditions:

1. The applicant is only permitted to have one (1) customer visit and one (1) delivery per day.
2. The applicant is not permitted to have any employees outside of the residence.

SECOND: Mr. Aronow

VOTE: 4-0

B. ZBA20-286CU, Conditional Use, Earthbound Bed & Breakfast

Phil LeBlanc of 4 Clark Place advised he was happy for the applicant. Mr. LeBlanc briefly stated the importance of the regulations for tourism and safety. He advised that other Bed & Breakfast establishments are allowed different numbers of guest and advised it should be fair for all. Mr. LeBlanc also submitted a letter to the Board that was added to the record.

MOTION: Mr. West moved for approval of application ZBA20-286CU for the establishment of a Bed and Breakfast at 28 E. 3rd Street finding that:

1. The proposed use is in harmony with the policies of the Land Use Element, Heritage Resources Element, and the Economic Development Element of the 2010 Comprehensive Plan and the Land Management Code (LMC).
2. The characteristics of the use and its operation on the Property and in relation to adjacent properties will not create any greater adverse impact than the operation of any permitted use not requiring conditional use approval.
3. That the Bed and Breakfast will comply with all conditions and requirements set forth in the Code, including the standards of Section 809 specific to Bed and Breakfasts/Tourist Homes as follows:
 - a. The Applicant has provided guarantees through their testimony that the Property is adequate for the proposed use and that the use will not constitute a nuisance because of increased vehicular

- traffic, noise, odor or any other activity associated with the use which may be disruptive to the residential character of the neighborhood.
- b. The Property is located within the Historic Preservation Overlay (HPO) and as such, there is no restriction on the number of Bed and Breakfasts that can operate within the same block or proximity.
 - c. The property owner resides at the Property.
 - d. There is no exterior evidence that home is being used for any purpose other than a residence.
 - e. Off-Street parking cannot be physically provided on the Property without removal of the principal structure, which would be prohibited and would negatively impact the site and as such, the Board may modify the parking requirement.
 - f. The Bed and Breakfast will not be used, leased or rented for business or wedding reception activities.
 - g. Breakfast is the only meal provided to guests and it is not served to any other paying nonresident of the premises.
 - h. No paying guest are permitted to remain for more than 14 days within a 30-day period.
 - i. The owner maintains a register of all paying guests listing the guests' names; dates of arrival and departure; room number and number of occupants per room. If requested, this register must be made available to appropriate city officials.

With the following conditions:

- 1. Per Section 312(g), the Applicant must receive a zoning certificate within two years of the date of approval.

SECOND: Mr. Aronow

VOTE: 4-0

VIII. BOARD BUSINESS: None

IX. ITEMS ADDED TO AGENDA

Zoning Determinations Completed:

- ZBA20-37ZD, 501 Prospect Blvd.
 - ZBA20-38ZD, 922-1000 N. Market Street
 - ZBA20-40ZD, 1016A N. Market Street
 - ZBA20-41ZD, 1016 N. Market Street
 - ZBA20-42ZD, 1020 N. Market Street
 - ZBA20-118ZD, 800 Motter Avenue
 - ZBA20-119ZD, 347 Ballenger Center Drive
 - ZBA20-124ZD, 615 W. Patrick Street
 - ZBA20-149ZD, 400 E. Church Street
 - ZBA20-168ZD, 248 Dill Avenue
 - ZBA20-171ZD, 340-342 Park Avenue
 - ZBA20-276ZD, 1888-1890 N. Market Street
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X. ADJOURNMENT

Meeting adjourned approximately at 9:00 p.m.

Respectfully Submitted,
Jessica Murphy
Administrative Assistant

APPROVED 5/26/2020